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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,125

08/25/2003

Byoung-Woo Cho

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EXAMINER

MORAN, KATHERINE M

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

04/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/647,125	<b>Applicant(s)</b> CHO, BYOUNG-WOO	
	<b>Examiner</b> Katherine Moran	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's response of 1/16/08 has been received and reviewed. Claims 1, 3, 5, 9-11, 13-16, 18, 20, and 21 were amended. Claims 1-21 are pending.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites a sunshield, crown, and visor among other limitations. Applicant's specification (pg.3) discloses the visor and sunshield as being one in the same element 14.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 6, 7, 11, 12, 14, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang (U.S. 6,336,224). Wang discloses the invention as claimed. Wang teaches headgear comprising a cap having a crown 2 and

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visor/sunshield 1, and a headband 3 attached to the crown and comprising a front part 31 formed of stretchable material and a rear part 32, behind the front part in a circumferential direction of the headband, formed of a non-stretchable material (see Wang's claim 5). The front part is closer to the visor than the rear part, the front and rear parts forming a continuous loop and respective ends of the front and rear parts abutting each other. Figure 3 shows that at least the bottom edge of the front part 31 is in stitched contact with the crown 2 and in tension (due to the stitched relationship) and the front part 31 extends along the crown's bottom to edges of the visor. Wang's crown is a fixed size in that the crown's size remains fixed unless acted upon by an outside force. It is noted that further structure defining a fixed size crown has not been provided. Regarding claim 16, the term "stretched" is not given patentable weight in interpreting an apparatus claim, since it recites a process. The front part is capable of being stretched.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 8-10, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang '224 in view of Landers (U.S. 2003/0106135). Wang discloses the invention substantially as claimed. However, Wang doesn't teach tension of the

front part of the headband greater than a tension of the top part of the front part of the headband so that the front part inclines toward a center of the crown. Landers teaches a cap structure 10 with a lower portion of a stretchable headband 14 attached to the crown 12 in tension, with the resulting tension being greater than a tension of a top portion of the headband so that the front part of the headband inclines toward a center of the crown. Since Landers' top portion is not sewn or attached to any other portions of the cap, there is minimal tension present, and the top portion is free and capable of inclining toward a center of the crown depending upon how the cap is placed on the wearer's head. Therefore, it would have been obvious to provide Wang's top part of the front part with a lower tension than its stitched lower edge, in order to allow for unencumbered movement of the top part such that the top part will more readily conform to the wearer's head. Wang also doesn't teach the visor is elastic and comprises a bill extending outside the crown and an extended portion extending into the crown. Landers provides the elastic neoprene foam rubber visor 16 with an extended portion 24 extending into the crown 12. Thus, the extended portion of the visor, the crown and headband are attached together in tension to provide a curved visor configuration. This configuration lends itself to compact storage and flexing of the cap without destroying the cap form. Therefore, it would have been obvious to provide Wang's cap with the visor structure as taught by Landers in order to provide a pre-curved cap structure.

7. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang '224 in view of Young (U.S. 6,546,563). Wang discloses the invention

substantially as claimed. However, Wang doesn't teach the front part extends circumferentially in the crown along the bottom beyond edges of the visor. Young teaches a band portion 22 which extends circumferentially along the bottom beyond edges of the visor. This configuration prevents seams the temple region of the wearer's head, such there is no undue pressure or stress applied thereto. Therefore, it would have been obvious to form Wang's front part such that it extends circumferentially along the bottom beyond edges of the visor in order to avoid seams at critical areas of the cap's circumference.

8. Claim 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang '224 in view of Kronenberger (U.S. 5,983,398). Wang discloses the invention substantially as claimed. However, Wang doesn't teach the visor is elastic and/or the method of making including attaching the visor to the crown before the headband is attached to the crown and producing an extended portion of the elastic visor extending into an interior of the crown. Kronenberger teaches a method of making as shown in Figure 7, with the visor's extended portion 66 attached to the crown portion 64, with the headband 58 then attached thereto. Therefore, it would have been obvious to form Wang's cap with the elastic visor in order to allow for flexibility of the visor, and to manufacture the cap according to Kronenberger's method steps so that the headband is not deformed when the visor is flexed or stretched.

***Response to Arguments***

9. Applicant's remarks have been considered. Applicant's claim amendments have necessitated the revised art rejections as outlined above.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch, may be reached at (571) 272-4996. The official and after final

fax number for the organization where this application is assigned is (571) 273-8300.

General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Katherine Moran/

Primary Examiner, AU 3765